

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA	.	Criminal No. 1:12cr127
	.	
vs.	.	Alexandria, Virginia
	.	October 23, 2012
JOHN KIRIAKOU,	.	11:00 a.m.
	.	
Defendant.	.	
	.	
. . . . .	.	

TRANSCRIPT OF PLEA HEARING  
BEFORE THE HONORABLE LEONIE M. BRINKEMA  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT:	W. NEIL HAMMERSTROM, JR., AUSA IRIS LAN, AUSA MARK SCHNEIDER, AUSA United States Attorney's Office 2100 Jamieson Avenue Alexandria, VA 22314 and RYAN P. FAYHEE Trial Attorney U.S. Department of Justice National Security Division Counterespionage Section 600 E Street, N.W. Washington, D.C. 20004
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FOR THE DEFENDANT:	ROBERT P. TROUT, ESQ. JESSE I. WINOGRAD, ESQ. Trout Cacheris, PLLC 1350 Connecticut Avenue, N.W. Suite 300 Washington, D.C. 20036
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OFFICIAL COURT REPORTER:	ANNELIESE J. THOMSON, RDR, CRR U.S. District Court, Fifth Floor 401 Courthouse Square Alexandria, VA 22314 (703)299-8595
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COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

1 P R O C E E D I N G S

2 (Defendant present.)

3 THE CLERK: Criminal Case 12-127, United States of  
4 America v. John Kiriakou. Would counsel please note their  
5 appearances for the record.

6 MR. HAMMERSTROM: Good morning, Your Honor. Neil  
7 Hammerstrom, Mark Schneider, Iris Lan, and Ryan Fayhee for the  
8 United States.

9 THE COURT: Good morning.

10 MR. TROUT: Good morning, Your Honor. Robert Trout  
11 and Jesse Winograd from the firm of Trout Cacheris, on behalf  
12 of Mr. Kiriakou.

13 THE COURT: Good morning.

14 MR. TROUT: Good morning.

15 THE COURT: All right, we have the original plea  
16 agreement and statement of facts.

17 MR. HAMMERSTROM: Your Honor, I need to point out one  
18 difference between what was delivered to chambers.

19 THE COURT: Yes, sir.

20 MR. HAMMERSTROM: The fine amount should be \$250,000.  
21 An amendment to that provision of Title 50 imposed the Title 18  
22 fine schedule, so I've made that change on the original  
23 documents that have been provided to the Court today.

24 THE COURT: And is there -- there is not a -- I'm  
25 sorry, yes, there is a special assessment. All right, that's

1 fine.

2 Now, counsel, just so you know before we start the  
3 process, you-all submitted this plea under Rule 11(c)(1)(C),  
4 which is what we call a binding plea. In other words, the  
5 parties have agreed in this agreement to a specific sentence,  
6 and the Court must accept that or the plea is not accepted.  
7 The government did provide the Court with a draft of the plea  
8 agreement ahead of time, and I reviewed it quite carefully.

9 It is not the general practice in this courthouse for  
10 judges to take binding Rule 11 pleas. I've done it at least  
11 once in the past in another national security case, and I have  
12 carefully considered the pros and cons of that type of plea. I  
13 also looked very carefully at the proposed sentence, which I  
14 understand is the same sentence that was imposed on Scooter  
15 Libby in a similar kind of situation.

16 I think it is reasonable under the circumstances  
17 balancing the various interests, so assuming everything goes  
18 forward this morning without any hitches, I will accept this  
19 plea with the recommendation that's in it, all right?

20 Are there any preliminary matters before we begin the  
21 process?

22 MR. HAMMERSTROM: Not for the government, Your Honor.

23 THE COURT: Mr. Trout, anything before we start?

24 MR. TROUT: No, Your Honor.

25 THE COURT: All right, Mr. Kiriakou, come up to the

1 lectern. The clerk is going to place you under an affirmation.

2 JOHN CHRIS KIRIAKOU, DEFENDANT, AFFIRMED

3 THE COURT: All right, Mr. Kiriakou, you have just  
4 taken a promise to tell the truth in answering all of the  
5 Court's questions. That means that if you should lie in  
6 answering any question, you could be prosecuted for a new and  
7 separate crime called perjury. Do you understand that?

8 THE DEFENDANT: I do.

9 THE COURT: For the record, what is your full name?

10 THE DEFENDANT: John Chris Kiriakou.

11 THE COURT: And, Mr. Kiriakou, how old are you?

12 THE DEFENDANT: I'm 48 years old.

13 THE COURT: How much education have you completed?

14 THE DEFENDANT: I have finished my master's degree.

15 THE COURT: I assume then that you do not have any  
16 problem reading, writing, understanding, or speaking English?

17 THE DEFENDANT: I do not.

18 THE COURT: And you are a United States citizen,  
19 correct?

20 THE DEFENDANT: I am.

21 THE COURT: Are you presently on probation, parole,  
22 or supervised release from any other criminal case?

23 THE DEFENDANT: No.

24 THE COURT: Are you at this time under the care of a  
25 doctor for any physical or mental condition?

1 THE DEFENDANT: A physical condition.

2 THE COURT: And the condition is what?

3 THE DEFENDANT: Diabetes.

4 THE COURT: All right. Are you taking medication for  
5 that condition?

6 THE DEFENDANT: I am.

7 THE COURT: Have you taken your medication on  
8 schedule?

9 THE DEFENDANT: Yes.

10 THE COURT: Other than the diabetes medication,  
11 within the last 24 hours, have you taken any medication,  
12 whether by prescription or over the counter?

13 THE DEFENDANT: No.

14 THE COURT: Are you at this time under the influence  
15 of any alcohol or drugs?

16 THE DEFENDANT: No.

17 THE COURT: All right. We have in court this morning  
18 a written plea agreement which is seven pages long, and I see  
19 what appears to be your signature at the top of page 7 with  
20 today's date. Did you, in fact, sign the written plea  
21 agreement?

22 THE DEFENDANT: I did.

23 THE COURT: And you signed it this morning before  
24 court?

25 THE DEFENDANT: Yes.

1           THE COURT: All right. Now, before you signed the  
2 plea agreement, did you read it over for yourself word for  
3 word?

4           THE DEFENDANT: Yes.

5           THE COURT: And approximately when did you first see  
6 a copy of the plea agreement which is in court today?  
7 Approximately.

8           THE DEFENDANT: Approximately three days ago.

9           THE COURT: All right. And other than the fine, has  
10 any change been made to the copy that you first read three days  
11 ago?

12          THE DEFENDANT: No.

13          THE COURT: All right. And when you read the plea  
14 agreement, was counsel present?

15          THE DEFENDANT: Yes.

16          THE COURT: So you read it at the law firm?

17          THE DEFENDANT: Initially at the law firm and then  
18 we've, we've spoken about it several times over the telephone.

19          THE COURT: All right. Now, have you had enough time  
20 to ask your counsel all the questions that you have about the  
21 plea agreement?

22          THE DEFENDANT: Yes.

23          THE COURT: Have they answered all of your questions  
24 to your satisfaction?

25          THE DEFENDANT: Yes.

1           THE COURT: Do you have any questions you want to ask  
2 me about the plea agreement?

3           THE DEFENDANT: I do not.

4           THE COURT: I want you to look at page 7. The next  
5 question is somewhat repetitive, but I want to make sure you're  
6 crystal clear. If you look at the two sentences immediately  
7 above where your signature would be, they go, "I have read this  
8 plea agreement and carefully reviewed every part of it with my  
9 attorney. I understand this agreement and voluntarily agree to  
10 it."

11           Do you see those two sentences?

12           THE DEFENDANT: Yes, I do.

13           THE COURT: Are they completely true in every  
14 respect?

15           THE DEFENDANT: Yes, they are.

16           THE COURT: Now, Mr. Kiriakou, by telling the Court  
17 that you've read the entire plea agreement and discussed it  
18 thoroughly with counsel and that you understand it and you're  
19 voluntarily agreeing to it, that means you will be bound by  
20 everything that's written in this seven-page document even if I  
21 don't go over every paragraph or page with you in court today.

22           Do you understand that?

23           THE DEFENDANT: I do.

24           THE COURT: And the reason for that result is that  
25 this plea agreement is really a written contract between you

1 and the United States government, and when a person signs a  
2 written contract after he's carefully reviewed it with counsel  
3 and he understands it when he signs it and he signs it  
4 voluntarily, then you can't just come back to court in a couple  
5 of weeks and say, "You know, I really don't like what's on page  
6 4. I want to change it."

7 That's just too late. Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Now, other than the plea agreement that's  
10 in court this morning, do you have any side deals or side  
11 understandings of any kind with anyone from your former  
12 employer, the U.S. Attorney's Office, the Department of  
13 Justice, or anybody else concerning this case?

14 THE DEFENDANT: No.

15 THE COURT: Mr. Trout, is that correct?

16 MR. TROUT: That's correct, Your Honor.

17 THE COURT: All right. Let's turn then to page 1,  
18 paragraph 1, and there it indicates you've agreed to plead  
19 guilty to Count 1 of the pending indictment that charges you  
20 with intentionally disclosing information identifying a covert  
21 agent, in violation of Title 50, United States Code, section  
22 421(a). That is a felony offense exposing you to the possible  
23 sentence of up to ten years of imprisonment followed by three  
24 years of supervised release, a fine of up to \$250,000, and  
25 there'll be an automatic special assessment of \$100.



1           Do you understand the penalties that by law you're  
2 facing?

3           THE DEFENDANT: Yes.

4           THE COURT: All right. Now, parole is not available  
5 in the federal system. That means whatever term of  
6 imprisonment is imposed must be fully served. Do you  
7 understand that?

8           THE DEFENDANT: Yes.

9           THE COURT: And after the prison portion of the  
10 sentence has been satisfied, that's when the supervised release  
11 portion of the sentence goes into effect. Now, when a person  
12 is on supervised release, he is under the control of a federal  
13 probation officer. It's much like the bond that you're on  
14 right now, where you're under the control of a court official,  
15 and there will be conditions of things that you must do and  
16 things that you cannot do while you're on supervision.

17           Do you understand that?

18           THE DEFENDANT: Yes.

19           THE COURT: I can't tell you the specific conditions  
20 yet because I haven't seen the pre-sentence report. However,  
21 what you need to understand at this point is that if you  
22 violate any condition of supervised release, you could be sent  
23 back to prison for as long as the period of supervised release,  
24 which is three years.

25           Do you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: Now, because this is a binding Rule  
3 11(c)(1)(C) plea, I want to turn your attention to paragraph 2.  
4 Normally in a plea colloquy, I would explain to a defendant how  
5 the sentencing guidelines work and how Section 3553(a) of Title  
6 18 work, but in this case, I don't believe that's necessary.

7 What you need to understand and appreciate is  
8 paragraph 2. It indicates there that you and the government  
9 have agreed that the sentence to be imposed will be a period of  
10 imprisonment of 30 months on Count 1 followed by a term of  
11 three years of supervised release, and there will be an  
12 automatic special assessment of \$100.

13 Is that your understanding of the agreement you have  
14 reached with the government?

15 THE DEFENDANT: Yes.

16 THE COURT: And as I already indicated to you,  
17 assuming everything goes well with the rest of these questions  
18 and answers, this Court will accept the plea agreement as  
19 you-all have proposed in paragraph 2.

20 Now, in paragraph 3 of the plea agreement, there's an  
21 indication that the United States does not oppose your request  
22 that will be made at the sentencing hearing that the Court  
23 recommend that the Bureau of Prisons designate you for the  
24 service of your sentence to a minimum security camp at Federal  
25 Correctional Institution Loretto, Pennsylvania.

1 I want to make sure you understand that no matter  
2 what the Court recommends, the Bureau of Prisons makes the  
3 ultimate decision, No. 1, as to the level of security, whether  
4 it would be a camp or a level 1, 2, 3, whatever, and they also  
5 make the decision as to the specific facility, and if they do  
6 not follow the recommendation, that is not a violation of the  
7 plea agreement, and it will not give you a basis to withdraw  
8 your guilty plea.

9 Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: In paragraph 6 of the plea agreement,  
12 that addresses the forfeiture of certain pension rights.  
13 You've agreed in paragraph 6(a) that you may not be paid  
14 annuity or retirement payments arising from your federal  
15 service as a result of this conviction for Count 1, and so you  
16 have agreed to forfeit any interest that you might have in such  
17 future payments.

18 Is that part of your understanding of this agreement?

19 THE DEFENDANT: It is, but I'm still unclear, Your  
20 Honor, as to the money that I contributed to the pension, what  
21 happens to that money.

22 THE COURT: We're not a pension expert. Does the  
23 government have any idea, Mr. Hammerstrom?

24 MR. HAMMERSTROM: I don't know, Your Honor, but I  
25 think that next paragraph makes that sort of moot because --

1 THE COURT: Because of the spouse?

2 MR. HAMMERSTROM: That is an option here if they take  
3 advantage of that.

4 THE COURT: All right. Well, let's get to paragraph  
5 6(b). There it indicates that you also acknowledge -- again,  
6 this is governed by Title 5 of the United States Code, section  
7 8318(e) -- that your spouse shall be eligible for spousal  
8 pension benefits only if the attorney general of the United  
9 States determines that your spouse fully cooperates with  
10 federal authorities in the ongoing criminal investigation and  
11 prosecution of yourself.

12 The decision to invoke the provisions of Title 5 is  
13 vested solely in the attorney general, and any determination by  
14 the attorney general that the defendant's spouse has not fully  
15 cooperated shall not be a basis for the defendant to withdraw  
16 his guilty plea.

17 Do you understand that's part of this plea agreement?

18 THE DEFENDANT: Yes.

19 THE COURT: So that probably answers the question.  
20 Obviously, there wouldn't be any pension benefit if you hadn't  
21 made contributions.

22 I assume that's what you meant, Mr. Hammerstrom?

23 MR. HAMMERSTROM: Yes, Your Honor.

24 THE COURT: All right. So that's something you're  
25 going to need to work out with your counsel and maybe a pension

1 expert, all right?

2 THE DEFENDANT: (Nodding head.)

3 THE COURT: Defendants normally have a right to  
4 appeal their conviction as well as any sentence that's imposed  
5 on them, but if you look at paragraph 7, as part of this plea  
6 agreement, you are waiving -- which means giving up -- your  
7 right to appeal the conviction for Count 1 and any sentence  
8 that's within the statutory maximum.

9 Do you understand that's part of your plea agreement?

10 THE DEFENDANT: Yes.

11 THE COURT: My understanding is from paragraph 9 that  
12 there's not going to be any other monetary penalties. Is that  
13 correct, Mr. Hammerstrom?

14 MR. HAMMERSTROM: Correct, Your Honor.

15 THE COURT: All right. In paragraph 10, the  
16 government has agreed that it will not further criminally  
17 prosecute you in this district for any of the specific conduct  
18 described in the indictment or the statement of facts. Now,  
19 paragraph 10 does not give you universal immunity, so if you  
20 were involved in some other illegal activity in the District of  
21 Columbia or Maryland, for example, those authorities could  
22 still prosecute you.

23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: In addition, if you were involved in

1 criminal activity other than what's described in the indictment  
2 in this district, the U.S. Attorney's Office for this district  
3 could still prosecute you here. Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: In paragraph 11, the government has  
6 agreed that it will upon your guilty plea being accepted move  
7 to dismiss the remaining counts of the indictment. Is that  
8 also part of your understanding?

9 THE DEFENDANT: Yes.

10 THE COURT: Now, have you had enough time to explain  
11 everything you know about this case to your counsel?

12 THE DEFENDANT: I have.

13 THE COURT: And have they discussed with you the  
14 nature of the charge in Count 1 and any ways in which you could  
15 possibly defend yourself against that charge?

16 THE DEFENDANT: Yes.

17 THE COURT: Are you fully satisfied with the way your  
18 counsel have worked for you in this case?

19 THE DEFENDANT: Yes.

20 THE COURT: And, Mr. Trout, just for the record,  
21 because I think the Supreme Court now really requires us to  
22 look a little bit more into the plea bargaining history in the  
23 case, other than the few changes that were made to the plea  
24 agreement that's in court today, were there any other  
25 significant offers before this one? In other words, were there

1 any other proposed plea agreements coming from the government  
2 to you-all other than this one?

3 MR. TROUT: Your Honor, there was an offer that was  
4 made pre-indictment which was rejected.

5 THE COURT: Was it significantly different from this  
6 one?

7 MR. TROUT: In my judgment, it was not as favorable.

8 THE COURT: This is more favorable?

9 MR. TROUT: In my judgment.

10 THE COURT: All right.

11 MR. TROUT: And then we did have negotiations or  
12 conversations and some back-and-forth, I would say, beginning a  
13 couple of weeks ago.

14 THE COURT: All right. And have you shared with  
15 Mr. Kiriakou all of the proposals that you've received from the  
16 government?

17 MR. TROUT: Yes, Your Honor.

18 THE COURT: And given him an assessment as to whether  
19 he should consider accepting that proposal or try to negotiate  
20 something else?

21 MR. TROUT: Both in meetings and in written  
22 communications, Your Honor.

23 THE COURT: All right. Now, Mr. Kiriakou, do you  
24 understand you still at this time have a right to continue with  
25 your not guilty plea to Count 1 of the indictment?

1 THE DEFENDANT: Yes.

2 THE COURT: And if you decided to go to trial on  
3 Count 1, then obviously, the burden would be on the government  
4 to prove you guilty, and specifically, in order for them to  
5 prove that you are guilty of the charge in Count 1, they'd have  
6 to be able to prove that on or about July 11, 2008, that you  
7 essentially revealed the name of the person who was considered  
8 to be a covert agent.

9 The government would have to be able to prove that  
10 the person, in fact, was covert, in other words, that the  
11 government had steadfastly tried to keep that person's identity  
12 secret. That's a major issue in this case. Do you understand  
13 that?

14 THE DEFENDANT: Yes.

15 THE COURT: They would have to show beyond a  
16 reasonable doubt that you knowingly made the disclosure. Do  
17 you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: And they'd have to make sure -- they'd  
20 have to be able to prove beyond a reasonable doubt that the  
21 disclosure occurred or had some connection to the Eastern  
22 District of Virginia. Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: Now, if a person pleads not guilty and  
25 goes to trial, then there are a series of rights and



1 protections that he has at trial that he doesn't really have  
2 when he pleads guilty. First, at trial you could see all of  
3 the government's witnesses and evidence and test it through the  
4 questions of your attorney. Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: You could ask the Court to issue  
7 subpoenas to require the presence of witnesses and/or evidence  
8 at the courthouse that you could use in your defense. Do you  
9 understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: You could testify as a witness at trial.  
12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: However, you could also invoke your Fifth  
15 Amendment right to remain silent, and if you chose not to  
16 testify, no inference of guilt could be drawn from your  
17 silence. Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: You would, of course, have the right to  
20 be represented by counsel throughout your trial, and if you  
21 could not afford counsel, we would make sure you had counsel at  
22 taxpayers' expense. Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: Now, you opted for a trial by jury. A  
25 jury trial would be conducted with 12 ordinary citizens brought

1 basically together on a random basis, and in order for a jury  
2 to reach a decision as to any issue in the case, the jury would  
3 have to be unanimous. So if, for example, just one juror had a  
4 reasonable doubt about your guilt, that jury could not convict  
5 you. It would be what we call a hung jury, and you'd have a  
6 right to a new trial with a new jury on that issue.

7 Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: If you continued with a not guilty plea,  
10 your counsel could continue their efforts to attack the  
11 prosecution's case. As you know, there were still a lot of  
12 CIPA issues that have not yet been resolved, and there may be  
13 other types of issues that could be raised pretrial or at  
14 trial.

15 What you need to appreciate is that by pleading  
16 guilty, you're giving up your right first of all to appeal any  
17 of the Court's previous decisions involving CIPA or anything  
18 else, and you're also giving up any of the defenses that you  
19 might have. Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: And lastly, if you pled not guilty to  
22 Count 1 and you were found guilty on that count, you could  
23 appeal that finding of guilt to a higher-level court. Do you  
24 understand, as I indicated earlier, under the terms of this  
25 plea agreement as well as the way the law is structured, when a

1 person is found guilty based upon his own guilty plea, he gives  
2 up his right to appeal his conviction? Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: Other than the written plea agreement  
5 that's in court this morning, has anybody promised or suggested  
6 to you that by pleading guilty, you would get a lighter  
7 sentence or more favorable treatment by the Court?

8 THE DEFENDANT: No.

9 THE COURT: Has anyone put any force or pressure on  
10 you to plead guilty today?

11 THE DEFENDANT: No.

12 THE COURT: All right. Mr. Kiriakou, the last  
13 document we have, which is part of your plea agreement, is the  
14 written statement of facts, and that statement of facts, which  
15 is quite extensive, is 11 pages long. I see on page 11 what  
16 appears to be your signature, and again, there is no date, but  
17 I'm assuming you signed it this morning. Is that correct?

18 THE DEFENDANT: No, Your Honor. I signed it  
19 yesterday.

20 THE COURT: Yesterday? The 22nd?

21 MR. TROUT: Yes. He re-signed it this morning.

22 THE DEFENDANT: I did actually re-sign it this  
23 morning.

24 THE COURT: All the attorneys signed it today.

25 THE DEFENDANT: I was looking at the photocopy.

1           THE COURT: All right. Mr. Kiriakou, before you  
2 signed the statement of facts, did you read it over carefully  
3 for yourself?

4           THE DEFENDANT: Yes.

5           THE COURT: I assume because this normally happens  
6 that you and your counsel negotiated to some degree the  
7 statement of facts?

8           THE DEFENDANT: Yes, that's correct.

9           THE COURT: And the one that's in court today  
10 reflects the final result of those negotiations?

11          THE DEFENDANT: Yes.

12          THE COURT: Do you understand that by signing the  
13 statement of facts, you're doing two things: One, you're  
14 admitting the truth of everything that is written in the 26  
15 numbered paragraphs before your signature. Do you understand  
16 that?

17          THE DEFENDANT: Yes.

18          THE COURT: And secondly, you are also admitting that  
19 if the case had gone to trial, the government could have proven  
20 all of those facts beyond a reasonable doubt.

21          THE DEFENDANT: Yes.

22          THE COURT: Do you understand that?

23          THE DEFENDANT: Yes.

24          THE COURT: All right. I'm not going to go over the  
25 long statement of facts with you verbatim, but I will just

1 touch on a few of these paragraphs just to make sure there's no  
2 slippage. Do you agree that in the 2008-2009 time period, in  
3 this district and elsewhere, that you intentionally -- and that  
4 means not by an accident or mistake -- disclosed information  
5 identifying a covert agent to an individual not authorized to  
6 receive classified information, and that at that time, you knew  
7 that the information disclosed identified the covert agent and  
8 that the United States government was taking affirmative  
9 measures to conceal that covert agent's intelligence  
10 relationship to the United States?

11 Do you agree that that happened?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. And you certainly can consult  
14 with counsel. Remember, my earlier question to you was if you  
15 have any -- if you have any dispute with any factual allegation  
16 in this statement of facts, this is the time to set the record  
17 straight, and so if you want to clarify the record, you need to  
18 do it now.

19 THE DEFENDANT: Thank you, Your Honor.

20 THE COURT: Do you want to clarify the record?

21 THE DEFENDANT: No, I do not.

22 THE COURT: You're sure?

23 THE DEFENDANT: Yes.

24 THE COURT: Because you're going to live with this  
25 statement of facts forever.

1 THE DEFENDANT: Yes.

2 THE COURT: All right. I'm not going to go through  
3 the statement here in court any further because you've clearly  
4 indicated that you've read it carefully and you're not  
5 disputing any of it. I'll give you one last chance: If  
6 there's anything that you want to nuance, anything else you  
7 think the Court should know, this is the time.

8 THE DEFENDANT: I do have one question, Your Honor.

9 THE COURT: Go ahead.

10 THE DEFENDANT: It is still unclear to me why  
11 paragraphs 17 and onward are even in this statement of facts.  
12 If the prosecution is dropping all of these charges, it seems  
13 to me that these paragraphs are irrelevant and even  
14 inflammatory. If I'm only being charged -- or if I'm only  
15 pleading guilty to Count 1, I just don't understand why Counts  
16 2 through 5 are even in this statement of facts when they're  
17 not in the plea agreement.

18 THE COURT: I'm assuming your counsel and the  
19 government counsel fought long and hard over this statement of  
20 facts.

21 Is that a fair assumption, Mr. Trout?

22 MR. TROUT: Very fair, Your Honor.

23 THE COURT: All right. In some respects, it's window  
24 dressing, I agree with you, because this is a binding plea. If  
25 this were not a binding plea, this would be relevant conduct

1 which the Court would or would not -- this Court's not crazy  
2 about relevant conduct, frankly, but it would factor into the  
3 guideline calculations, and I think for the record, we will  
4 need to have the guidelines calculated in this case, but the  
5 bottom line is it isn't going to make any difference to the  
6 outcome of this case.

7 THE DEFENDANT: Certainly.

8 THE COURT: All right? Now, again, this is your day  
9 in court, and I don't want you to feel in any respect pressured  
10 into this plea. If you feel strongly enough about this  
11 statement of facts that you don't want to acknowledge these  
12 paragraphs, you can, you know, withdraw, but, I mean, this is  
13 the plea that you've been offered by the government, and you  
14 need to decide now -- if you want to talk to Mr. Trout for a  
15 few more minutes, you certainly may -- whether you want to  
16 accept this statement of facts as it is or not.

17 THE DEFENDANT: Your Honor, I'll accept it. I just,  
18 I just wanted to point that out. Thank you for the  
19 opportunity.

20 THE COURT: All right. And it's not lost on the  
21 Court.

22 THE DEFENDANT: Thank you.

23 THE COURT: All right. Now, do you understand,  
24 Mr. Kiriakou, that if the Court accepts your guilty plea this  
25 morning, there's going to be no further trial of this case, and

1 you will be found guilty as of today of Count 1?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you claim in any respect you're  
4 innocent of the charge in Count 1?

5 THE DEFENDANT: No.

6 THE COURT: How then do you plead to that charge?

7 THE DEFENDANT: Guilty.

8 THE COURT: All right. Mr. Trout, have you carefully  
9 gone over this plea with your client?

10 MR. TROUT: I have, Your Honor.

11 THE COURT: Does the plea fully accord with your  
12 understanding of the facts and circumstances?

13 MR. TROUT: It does.

14 THE COURT: And in your opinion, is the plea  
15 voluntarily and understandingly made by the defendant?

16 MR. TROUT: It is. And I would add that Mr. Kiriakou  
17 has had time not only with me but with colleagues of mine who  
18 are counsel to him in this case. So we've had a great deal of  
19 time with Mr. Kiriakou discussing this case.

20 THE COURT: All right. And the only other question  
21 I'll just throw out there is I've had a case like this once  
22 before where a spouse's pension rights might be affected by the  
23 plea. I believe in that case, the spouse had signed off on the  
24 agreement.

25 Mr. Kiriakou, it really doesn't affect your



1 culpability and this plea, but I assume you have fully  
2 discussed that pension ramification with your wife?

3 THE DEFENDANT: I have, Your Honor.

4 THE COURT: And can you represent to the Court since  
5 you're under oath that she has agreed to what's in the plea  
6 agreement?

7 THE DEFENDANT: She has.

8 THE COURT: All right. Then based upon the answers  
9 to the Court's questions, the Court is satisfied that the  
10 defendant has entered his plea in a knowing and voluntary  
11 fashion, with the full advice of competent counsel, and that  
12 the written statement of facts, which has been fully  
13 acknowledged by the defendant, is more than sufficient evidence  
14 to establish guilt beyond a reasonable doubt as to Count 1, so  
15 you're found guilty of that count.

16 I will enter the government's motion -- grant the  
17 motion to dismiss Counts 2, 3, 4, and 5 of the indictment, so  
18 they'll be dismissed right now.

19 And we need to set this case for sentencing. We  
20 still need a pre-sentence report because the Bureau of Prisons  
21 needs that, and I also need it for purposes of evaluating what,  
22 if any, conditions are going to be needed during supervised  
23 release. I assume you-all expected that there would be a  
24 sentencing hearing?

25 MR. TROUT: We certainly did.

1 THE COURT: And I assume the government did as well?

2 MR. HAMMERSTROM: Yes, Your Honor.

3 THE COURT: All right, that's fine.

4 Have you looked at your calendars for a possible  
5 date? I think we should give the Probation Office their  
6 regular time, so I know we're well into January at this point.  
7 We have the 18th or the 25th of January. What works on your  
8 calendars?

9 MR. TROUT: Either.

10 THE COURT: Does the government have a preference?

11 MR. HAMMERSTROM: No preference, Your Honor.

12 THE COURT: All right, I think we'll do it on the  
13 25th then. It's at 9:00.

14 Now, Mr. Kiriakou, I really don't have to alert you  
15 to this, but I do want this to be a complete record. I assume  
16 that Mr. Trout has discussed with you the implications of a  
17 felony conviction in terms of employment potential down the  
18 road?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: All right. In other words, it would make  
21 getting government contracts most likely quite difficult if not  
22 impossible. It may affect your ability to work with entities  
23 that contract with the government. It also could affect  
24 bonding if you need bonds for any kind of work that you do.

25 And you have fully discussed that with counsel?

1 THE DEFENDANT: Yes.

2 THE COURT: All right, that's fine.

3 All right, when you leave court today, you need to  
4 check in with Pretrial Services to advise them that the plea  
5 was accepted and to give them your next court date, which is  
6 Friday, January 25, at 9:00. You then need to go over to the  
7 Probation Office to enroll in the presentence investigation.

8 And I'm sure that Probation will know this, but,  
9 Mr. Trout, just remind them that they'll need a probation  
10 officer who has the necessary clearances, because I'm sure some  
11 of the information they may need to look at might be  
12 classified, all right?

13 MR. TROUT: Very well.

14 THE COURT: Anything further on this case?

15 MR. HAMMERSTROM: No, Your Honor.

16 THE COURT: No? Then we'll recess court for the day.  
17 (Which were all the proceedings  
18 had at this time.)

19  
20 CERTIFICATE OF THE REPORTER

21 I certify that the foregoing is a correct transcript of  
22 the record of proceedings in the above-entitled matter.

23

24

25

/s/  
\_\_\_\_\_  
Anneliese J. Thomson